In the High Court of Judicature at Madras

Dated:01.03.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.203 of 2006

B. Vellaisamy .. Petitioner

vs.

1. The State of Tamil Nadu
   rep. by the Sub Inspector
   of Police, E3 Teynampet
   Police Station
   Chennai 600 006.

2. Rama .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Mr. V. Bhiman

For respondents : Mr. Abudukumar Rajaratrhinam
Govt., Advocate (Crl.) for R.1

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Vellaisamy, has approached this Court seeking direction to the second respondent for production of his child Dhanalakshmi, aged about 3 ½ years before this Court and hand over custody of the child to him.

2. In the affidavit it is stated that though the petitioner has not married the second respondent, fairly admitted that he joined with her in 1997 and they lived together in Bangalore for nearly 2 years. In paragraph 3 the petitioner has also admitted that in May, 2000, he and the second respondent were living together

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at Ayyappanthangal, Chennai. During the said period, she delivered a female child by name Dhanalakshmi at Government K.M.C. Hospital, Chennai. It is the grievance of the petitioner that thereafter, he had some misunderstanding with the second respondent and now the child is with the second respondent. According to the petitioner, in spite of his best efforts, he was denied permission to see the child. An allegation also made against the second respondent that she is not a lady of good character and she is indulging in prostitution.

In the light of the admitted factual position that the petitioner has not married the second respondent and of the fact that she gave birth to a female child, which is now aged about 3 ½ years and living with her, it is not for this Court to go into the claim regarding the entitlement of the child in this proceedings. If the petitioner is really interested for the welfare of the child, it is for him to approach the appropriate forum to establish his right.

With the above observation, this petition is dismissed.

Kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Sub Inspector
   State of Tamil Nadu
   of Police, E3 Teynampet
   Police Station, Chennai 600 006.

2. The Public Prosecutor,
   High Court, Madras.

+1 CC to Mr.V.Bhiman, Advocate, SR No.9814

AMB(CO)
BG/7.3.2006

H.C.P.No.203 of 2005

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